IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8490 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

OFFICIAL LIQUIDATOR SILVER COTTON MILLS

Versus

TEXTILE LABOUR ASSOCIATION

Appearance:

1. Special Civil Application No. 8490 of 2004

MR KV GADHIA for Petitioner No. 1

MR DS VASAVADA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 16/08/2004

ORAL JUDGEMENT

Rule. Mr.D.S.Vasavada, learned advocate, waives service of notice of rule on behalf of the respondent. At the joint request of the learned advocates appearing

for the parties, the petition is taken up for final disposal today.

2. By the present petition, the petitioner has challenged the award dated 26.6.03 passed by the Industrial Court, Ahmedabad by which the reference of the respondent Union came to be allowed and the petitioner was directed to treat the workmen named in the said order as permanent workmen with effect from 1986 and pay the difference in compensation.

3. The Industrial Court in its impugned award had specifically come to the conclusion that there is an agreement between the petitioner and the respondent Union in which one of the conditions is that on the date of the agreement if the workman is working on permanent vacancy, he shall be treated as permanent employee. The said agreement was dated 3.9.96. The Industrial Court had also come to the conclusion that all the workmen mentioned in the operative portion of the order had actually been discharging duty on vacant posts which fell vacant on account of death or retirement of the permanent incumbents. The Industrial Court, therefore, allowed the reference raised by the respondent Union and granted benefits of permanency to the concerned workmen who were in all nine in number. Learned advocate for the petitioner has not been able to point out as to how the factual finding arrived at by the Industrial Court can be stated to be perverse. In that view of them matter, I find that the final conclusion reached by the Industrial Court cannot be interfered with in so far as the same grants benefits to nine workmen mentioned in the operative portion of the order.

4. Learned advocate for the respondent however concedes that looking to the facts and circumstances of the case and the agreement between the parties, the respondent would be ready to scale down their benefits for permanency with effect from 1989 instead of 1986 as granted by the Industrial Court. Recording the said concession, the award of the Industrial Court is modified to the extent that the workmen mentioned in the operative portion of the impugned award shall be entitled to the benefits as awarded by the Industrial Court with effect from 1.1.1989 instead of 1986 as directed. It is expected that the same will be paid to the concerned workmen as expeditiously as possibly preferably within a period of three months from today.

5. In view of the above directions, the petition stands disposed of. Rule is made absolute to the above

extent with no order as to costs.

(Akil Kureshi, J.)
(vjn)